

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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<b>JOSEPH SIMMONS</b>	:	
	:	
<b>Plaintiffs,</b>	:	<b>CIVIL ACTION</b>
	:	<b>No. 22-cv-1644-JMG</b>
<b>v.</b>	:	
	:	
<b>CITY OF PHILADELPHIA, et al,</b>	:	
<b>Defendants.</b>	:	<b>JURY TRIAL DEMANDED</b>
	:	

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**DEFENDANTS', SERGEANT FITZGERALD DICK, SERGEANT ALFRED  
LEBESCO, LIEUTENANT DEEBU CHRIAN, AND LIEUTENANT LOVELL  
CRAWFORD'S, ANSWER TO PLAINTIFFS' COMPLAINT  
WITH AFFIRMATIVE DEFENSES**

Defendants Sergeant Fitzgerald Dick, Sergeant Alfred Lebesco, Lieutenant Deebu Cherian, and Lieutenant Lovell Crawford,<sup>1</sup> through their undersigned counsel, hereby respond to Plaintiffs' Third Amended Complaint and avers as follows:

**INTRODUCTION:**

1. Denied. The allegations in this paragraph pertain largely to a party other than Answering Defendants. To the extent a response is required, denied.
2. The allegations in this paragraph pertain to a party other than Answering Defendants. To the extent a response is required, denied.
3. The allegations in this paragraph pertain to a party other than Answering Defendants. To the extent a response is required, denied.
4. The allegations in this paragraph pertain to a party other than Answering Defendants. To the extent a response is required, denied.

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<sup>1</sup> Corrections Officer Jesse Wilson resigned from his position in 2021. The undersigned has made outreach efforts but cannot accept service on his behalf without his permission. The undersigned will continue making efforts to locate former Officer Wilson.

5. The allegations in this paragraph pertain to a party other than Answering Defendants. To the extent a response is required, denied.
6. Admitted only that the Philadelphia Department of Prisons is a Department of the City of Philadelphia under the City Home Rule Charter.
7. The allegations in this paragraph pertain to a party other than Answering Defendants. To the extent a response is required, denied.
8. The allegations in this paragraph pertain to a party other than Answering Defendants. To the extent a response is required, denied.
9. The allegations in this paragraph pertain to a party other than Answering Defendants. To the extent a response is required, denied.
10. The allegations in this paragraph pertain to a party other than Answering Defendants. To the extent a response is required, denied.
11. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.
12. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.
13. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.
14. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.

#### **JURISDICTION AND VENUE**

15. This is a statement of jurisdiction to which the Federal Rules of Civil Procedure require no response. To the extent a response is required, denied.

16. This is a statement of jurisdiction to which the Federal Rules of Civil Procedure require no response. To the extent a response is required, denied.

**FACTS**

17. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.

18. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.

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145. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.
146. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response. Further, the information contained in this paragraph is not known or readily obtainable by Answering Defendants and therefore insufficient to enable Answering Defendants to either admit or deny.
147. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response. Further, the information contained in this paragraph is not known or readily obtainable by Answering Defendants and therefore insufficient to enable Answering Defendants to either admit or deny.
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150. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response. Further, the information contained in this paragraph is not known or readily obtainable by Answering Defendants and therefore insufficient to enable Answering Defendants to either admit or deny.

151. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response. Further, the information contained in this paragraph is not known or readily obtainable by Answering Defendants and therefore insufficient to enable Answering Defendants to either admit or deny.

152. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.

153. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.

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**COUNT I: FOURTEENTH AMENDMENT**

157. Answering Defendants incorporate all previous paragraphs as if fully stated herein.

158. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.

159. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.

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168. Denied. The allegations contained in this paragraph are untrue or constitute conclusions of law and/or Plaintiffs' statement of the case and, therefore, require no response.

**WHEREFORE**, answering Defendants deny that they are liable upon all causes of action declared upon and demand judgment in their favor, plus interest and costs.

**COUNT II: FOURTEENTH AMENDMENT MUNICIPAL LIABILITY**

169-173. The allegations in these paragraphs pertain to a party other than Answering Defendants. To the extent a response is required, denied.

**JURY DEMAND**

Answering Defendants demand a jury trial in this action.

**FIRST AFFIRMATIVE DEFENSE**

Plaintiff has failed to state a claim upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

Answering Defendants are immune from liability under the doctrine of qualified immunity.

**THIRD AFFIRMATIVE DEFENSE**

Plaintiff has suffered no legally cognizable injury, harm, loss, or damage upon which relief can be granted.

**FOURTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred, in whole or in part, to the extent that he has failed to take reasonable measures to mitigate any or all damages.

**FIFTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred, in whole or in part, insofar as Answering Defendants' purported actions or omissions were not the proximate cause of any alleged injury, loss, or damage incurred by Plaintiff.

**SIXTH AFFIRMATIVE DEFENSE**

At all times material to this civil action, Answering Defendants acted in a reasonable, proper, and lawful manner.

**WHEREFORE**, answering Defendants Deny that they are liable upon all causes of action declared upon and demand judgment in their favor, plus interest and costs.

Date: May 4, 2023

Respectfully submitted,

/s Kathryn Faris

**Kathryn Faris**

Deputy City Solicitor

1515 Arch Street, 14<sup>th</sup> Floor

Philadelphia, PA 19102-5397